

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) Case No. 10-00187-01-CR-W-ODS
ROBERT MONTGOMERY,)
Defendant.)

**ORDER (1) ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION (DOC. 152); (2) DENYING MOTION TO RE-PRESENT THE
CONSTITUTIONAL DEFECT (DOC. 134); AND (3) DENYING MOTION TO DISMISS
(DOC. 141)**

The Honorable Sarah W. Hays issued her Report and Recommendation concluding that the Court should deny Defendant's Motion to Re-Present the Constitutional Defect to the Unlawful Indictment Against the Defendant and Motion to Dismiss for Lack of Subject-Matter Jurisdiction. Neither party filed objections to the Report and Recommendation,¹ and the time for doing so has passed. 28 U.S.C. § 636(b)(1)(C); Local Rule 74.1(a)(2). Upon careful and independent review of the pending motions, as well as the applicable law, the Court agrees with the Report and Recommendation that Defendants' motions assert arguments that were rejected previously by the Court. Judge Hays' Report and Recommendation is adopted as the Order of the Court, and Defendant's motions are denied.

IT IS SO ORDERED.

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT

DATE: November 28, 2011

¹ Defendant filed objections (Doc. 162) to another Report and Recommendation (Doc. 151) issued the same day as the Report and Recommendation being considered here. That Report and Recommendation has already been adopted as the Order of the Court (Doc. 171).